

Amendment No. 1 to Amendment 4 to SB2300

Fowler  
Signature of Sponsor

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 2300**

**House Bill No. 2321\***

by deleting Section 2 in its entirety and by substituting instead the following:

SECTION 2. Tennessee Code Annotated, Title 56, is amended by adding the following as a new designated chapter:

56-\_\_-\_\_.

(1) "Commissioner" means the commissioner of the department of commerce and insurance;

(2) "Department" means the department of commerce and insurance;

(3) "Member" means any person who pays fees, dues, charges or other consideration for the right to enroll to receive the purported benefits of a prescription drug discount plan;

(4) "Operator" means any person that engages as principle in the business of managing, offering, selling, marketing, advertising or otherwise distributing information regarding any prescription drug discount plan developed and implemented pursuant to the second amendatory section 56-\_\_-\_\_(a) in this section. Operator does not include discount cards offered by a nonprofit association to its members as an incidental benefit to membership in the association provided that membership in such association entitles members to apply for insurance or other health benefits that are available only to members of the association;

(5) "Person" means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, limited liability company, any similar entity or any combination of the foregoing;

(6) "Prescription drug" has the same meaning as such term is defined in Tennessee Code Annotated, Section 63-10-204; and

(7) "Prescription drug discount plan" means any card or other purchasing mechanism or device, which is not insurance, that purports to offer discounts or access to discounts to any person for the retail purchase of prescription drugs from licensed pharmacies. A prescription drug discount plan does not include any drug discount card or drug benefit plan provided by a self-insured employer's group health benefits plan, or any prescription drug discount plan offered by an insurer licensed under title 56 in conjunction with health insurance or a manufacturer-sponsored drug assistance program.

56\_\_-\_\_.

(a) The department of health is hereby authorized to develop and implement a prescription drug discount plan which will be known as "Volunteer Rx" or, if the department of health deems appropriate, may contract for, pursuant to state purchasing laws, a prescription drug discount plan. The purpose of this section is to assist in providing, when possible, cost savings on medications for uninsured Tennesseans or for insured Tennesseans whose insurance does not provide for drug prescription coverage on or after January 1, 2005.

(b) Notwithstanding the above subsection (a), the department of health can, if funding is made available through the General Appropriations Act, provide benefits through Volunteer Rx. Such benefits would be limited by the funds specifically appropriated for that purpose. The department of health shall also have the authority to develop and implement prescription drug discount plans under Volunteer Rx targeted for specific defined populations; such plans may also incorporate benefits provided that funds are specifically allocated for such benefits in the General Appropriations Act.

(c) In developing the Volunteer Rx plan authorized by this section, the department of health can consider the use of different means to lower the overall

cost to participants, including, but not limited to, the payment or waiver of any membership fees as well as the use of cost-sharing arrangements and deductibles.

(d) Nothing in the creation of the Volunteer Rx plan pursuant to this section shall be construed as creating any entitlement by any individuals or entities to any services or medications.

56\_\_-\_\_.

(a) Each Volunteer Rx discount card or any materials distributed on behalf of such plan developed under the provisions of this part shall expressly provide in bold and reasonably prominent type that the card or plan does not constitute health insurance. The card or distributed materials must also contain a toll-free number for customer service, and provide the operator's corporate name and a web-site address, if applicable.

(b) Prior to becoming a member, each prospective member must be provided with a complete description of the fees that a member of the Volunteer Rx plan could be assessed, including any up front fees or membership fees associated with the plan, along with the estimated average savings typically associated with the plan's general terms and conditions. The following information shall also be provided to each prospective member:

(1) A network directory of participating pharmacies, that shall be updated annually, or access to such information online or by a toll-free number;

(2) A list of the prescription drugs covered by the card or plan that shall be updated annually, or access to such information online, or by a toll-free number, or by way of a notation that such plan is an open formulary; and

(3) A toll-free number for customer service.

(c) Each member shall have the right to cancel membership in the Volunteer Rx plan within thirty days of joining the plan and shall have the right to have any and all membership fees paid during that initial membership refunded.

(d) After the initial thirty day membership period, a member of the Volunteer Rx plan shall have the right to cancel membership in accordance with the policies established by the plan or the operator. If applicable, information concerning the cancellation policy must be provided to the member at the time of the initial membership and cannot be changed unless thirty-day written notice is provided to the member.

AND FURTHER AMEND by deleting Section 5 in its entirety and by substituting instead the following:

SECTION 5. Tennessee Code Annotated, Title 71, Chapter 5, is amended by inserting the following as a new, appropriately designated part thereto:

Section 71-5-\_\_\_\_. As used in this part, unless the context otherwise requires:

(1) "Department" means the department of finance and administration;  
and

(2) "Manufacturer-sponsored prescription drug assistance program" means a program offered by a pharmaceutical manufacturer through which the manufacturer provides a drug or drugs to eligible persons at no charge or at a discounted cost.

Section 71-5-\_\_\_\_.

(a) The Tennessee Pharmaceutical Connection Program is established to help the uninsured in accessing all manufacturer-sponsored prescription drug assistance programs and other programs for which they may qualify, including but not limited to Medicare Part D prescription drug coverage.

(b) The department of finance and administration shall administer the program and shall utilize a toll-free number and website as the point of contact for those eligible to participate in the program.

Section 71-5-\_\_.

(a) The department of finance and administration shall provide assistance as authorized by this act. The assistance provided shall include:

(1) Assisting persons in identifying and accessing manufacturer-sponsored prescription drug assistance programs for which they are or may be eligible;

(2) Assisting persons in applying for manufacturer-sponsored prescription drug assistance programs for which they are or may be eligible:

(3) Disseminating information about available programs including Volunteer Rx, that can provide assistance with obtaining prescription drugs at a lower cost; and

(4) Assisting persons in comparing Medicare Part D drug plans and in applying for that plan best suited to their needs.

(b)

(1) The department may seek and receive voluntary moneys, including grants and gifts, to assist with the implementation of the Tennessee Pharmaceutical Connection Program.

(2) The department shall include within the development of the program the assistance of foundations, independent and chain community pharmacists, volunteers, state agencies, community groups, area agencies on aging, corporations, hospitals, physicians, and any other entity that can further the intent of the program.

Section 71-5-\_\_. The department shall notify pharmaceutical companies doing business in Tennessee of the Tennessee Pharmaceutical Connection Program, and shall offer pharmaceutical companies the opportunity to submit information to the department about any pharmaceutical assistance programs they offer, the drugs covered by such programs, and all information required for application to the programs.

Section 71-5-\_\_\_. The department may implement additional strategies, subject to available resources, to improve access to prescription drugs for persons who have no or inadequate health insurance or other resources for the purchase of medically necessary prescription drugs.

Section 71-5-\_\_\_. The department of finance and administration shall prepare and submit an annual report on the operations of the Tennessee Pharmaceutical Connection Program to the governor, the speaker of the senate and the speaker of the house of representatives.

Section 71-5-\_\_\_. The program established in this part is not, nor does it anyway create, an entitlement.

Section 71-5-\_\_\_.

(a) An operator of a manufacturer-sponsored prescription drug assistance program must obtain a valid certificate of registration from the commissioner. Such certificate shall be valid for one year from the date of issuance. In order to receive a valid certificate of registration, the operator shall file an application on a form adopted by the commissioner, and provide or demonstrate to the commissioner each of the following:

- (1) The name and principle place of business of the operator;
- (2) A copy of the operator's promotional materials that are distributed to prospective members;
- (3) A list of drugs and drug classifications that make up the drug discount plan or a notation that such plan is an open formulary; and
- (4) The name and address of the agent in this State for service of process.
- (5) A network directory of participating pharmacies, that shall be updated annually, or access to such information online or by a toll-free number;

(6) A list of the prescription drugs covered by the card or plan that shall be updated annually, or access to such information online, or by a toll-free number, or by way of a notation that such plan is an open formulary; and

(7) A toll-free number for customer service.

(b) Notwithstanding any provision of law to the contrary, it shall be unlawful and a violation of this part for any person after August 1, 2005 to sell, market, promote, advertise or otherwise distribute a prescription drug discount plan in Tennessee without first complying with the registration provisions of this part, and complying with Tennessee Code Annotated, Sections 47-18-2701 and 47-18-2702. .

(c) After notice and hearing, the commissioner may levy an administrative penalty in an amount up to one thousand dollars (\$1,000) for each violation of the registration provisions of this chapter. Each day of a continuing violation constitutes a separate violation for purposes of this chapter.

AND FURTHER AMEND By deleting the language "upon request no later than by the close of business" in the first amendatory subsection in Section 12 and by substituting instead the language "upon written request no later than by the close of business".

AND FURTHER AMEND By deleting the language language "upon request no later than by the close of business" in the first amendatory subsection of Section 13 and by substituting instead the language "upon written request no later than by the close of business".